

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

21
Case No. 16-CR-175

v.

SAMY M. HAMZEH

Defendant.

ORDER

This matter is before the Court on the Defendant's Third and Fourth Motions to Compel and the Government's response via a Classified *Ex Parte, In Camera* Memorandum of Law and Motion Pursuant to Section 4 of the Classified Information Procedures Act and Rule 16(d)(1) of the Federal Rules of Criminal Procedure ("Government's Motion"). By its motion, the Government requested that the Court, pursuant to CIPA § 4, Fed. R. Crim. P. 16(d)(1), and the applicable law: (1) find that the classified information described in this motion need not be disclosed by the Government (under any theory of discovery) and authorize the government to delete it from discovery; and (2) order that the entire text of the Government's motion and all accompanying exhibits shall not be disclosed to the defense and shall be sealed and preserved in the records of the Court to be made available for all future review of these proceedings.

The Court has carefully considered the Government's discovery obligations, including but not limited to its obligations pursuant to Federal Rule of Criminal Procedure 16 and *Brady v.*

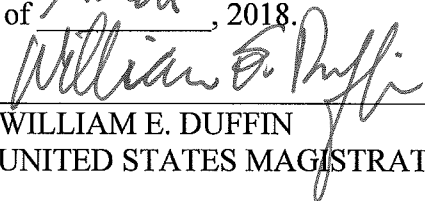
Maryland, 373 U.S. 83 (1963), *Giglio v. United States*, 405 U.S. 150 (1972), and their progeny. Having carefully considered the Government's discovery obligations and the Government's motion, its memorandum of law in support of the motion, and the Declarations filed therewith, the Court **GRANTS** the Government's Motions and **DENIES** the defendant's Third and Fourth Motions to Compel.

The Court finds that the Government's CIPA Motion was properly filed *ex parte*, *in camera*, for this Court's review, pursuant to CIPA § 4 and Fed. R. Crim. P. 16(d)(1). The Court has conducted an *ex parte*, *in camera* review of the Government's Motion and all attachments therewith.

On the basis of the Court's independent review of the information and the arguments set forth in the Government's Motion, the Court finds that the classified information referenced in the Government's Motion implicates the Government's national security and classified information privilege because the information is properly classified, and its disclosure could cause serious damage to the national security of the United States.

Accordingly, **IT IS ORDERED** that the Government is authorized to withhold from discovery to the defense the classified information outlined in the Government's Motion.

IT IS FURTHER ORDERED that the Government's Motion, including the memorandum of law and all accompanying Declarations, shall not be disclosed to the defense, and shall be sealed and maintained in a facility appropriate for the storage of such classified information by the Court Security Officer as the designee of the Clerk of Court, in accordance with established security procedures, for any future review, until further order of this Court.

IT IS SO ORDERED, this 25th day of March, 2018.


WILLIAM E. DUFFIN
UNITED STATES MAGISTRATE JUDGE